Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

Metro

Board Report

File #: 2019-0796, **File Type:** Policy **Agenda Number:** 39.

REGULAR BOARD MEETING
DECEMBER 5, 2019

SUBJECT: I-710 SOUNDWALL PACKAGE 2 PROJECT

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

A. HOLDING a public hearing on the proposed Resolution of Necessity; and

B. ADOPTING a Resolution of Necessity (Attachment B) authorizing the commencement of an eminent domain action to acquire a Permanent Footing Easement, Temporary Construction Easement (TCE) and site improvements from the property identified as Parcel E-08 (APN: 6227-027-040).

(REQUIRES 2/3 VOTE OF THE BOARD)

BACKGROUND

Acquisition of the Permanent Footing Easement and TCE, referred to herein as Property, is required for the construction and operation of the I-710 Soundwall Package 2 Project (Project). The Permanent Footing Easement, TCE and site improvements are required to construct new soundwalls that will improve the noise levels of the residents living next to the I-710 freeway and will be built in the ultimate location of the I-710 South Project.

A written offer to purchase was delivered to the Owner of Record (Owner) as required by California Government Code Section 7267.2. The Owner has not accepted the offer of just compensation made by the Los Angeles County Metropolitan Transportation Authority (LACMTA), and the parties have not reached a negotiated settlement as of this date. Because the Property is necessary for construction of the Project, staff recommends the acquisition of the Property through eminent domain to maintain the Project schedule.

In accordance with the provisions of the California Eminent Domain law and Sections 30503, 30600, 130051.13, 130220.5 and 132610 of the California Public Utilities Code (which authorize the public acquisition of private property by eminent domain), LACMTA has timely prepared and mailed notice of this hearing to the Owners informing them of their right to appear at this hearing and be heard on

the following issues: (1) whether the public interest and necessity require the Project; (2) whether the Project is planned or located in the manner that will be most compatible with the greatest good and the least private injury; (3) whether the Property is necessary for the Project; (4) whether either the offer required by Section 7267.2 of the Government Code has been made to the Owner, or the offer has not been made because the Owner cannot be located with reasonable diligence; (5) whether environmental review of the Project has complied with the California Environmental Quality Act (CEQA) and (6) whether LACMTA has given the notice(s) and followed the procedures that are a prerequisite to the exercise of the power of eminent domain.

After all of the testimony and evidence has been received by LACMTA's Board from all interested parties at the hearing, LACMTA's Board must make a determination as to whether to adopt the proposed Resolution of Necessity to acquire the Property by eminent domain. In order to adopt the resolutions, LACMTA's Board must, based on the evidence before it, and by a vote of two-thirds of all of its members, find and determine that the conditions stated in the items 1- 6 above exist. Attached is evidence submitted by staff that supports adoption of the Resolution that has been approved by counsel and which sets forth the required findings (Attachment A).

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on LACMTA's safety standards.

FINANCIAL IMPACT

This acquisition is budgeted in Highway Program Cost Center 4720, in the I-710 South Soundwall Package 2 Project 463416, Tasks 5.3.100 and 5.5.100, Professional Services Account 50316.

Since this is a multi-year project, the Project Manager, the Cost Center Manager, and the Senior Executive Officer, Program Management-Highway Program will be responsible for budgeting the remaining costs of the project in future fiscal years.

Impact to Budget

The source of funds for this effort will be Measure R Highway Capital (20%) Funds. These funds are not eligible for bus and rail operations and/or capital expenditures.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Equity Platform Framework Consistency

Equity is afforded to property owners to engage and have a voice in the decision-making process with regards to the acquisition of their property.

Strategic Plan Consistency

The recommended Board action is consistent with Metro Vision 2028 Goal #3: Enhancing Communities and Lives. Acquisition of property is a required step for the ultimate construction of the I

-710 Soundwall Package 2 Project which will provide noise attenuation benefits to the residents living next to the I-710 freeway as part of this segment.

NEXT STEPS

If this action is approved by the Board, LACMTA's condemnation counsel will be instructed to take all steps necessary to commence legal proceedings in a court of competent jurisdiction to acquire the Property by eminent domain. Counsel will also be directed to seek and obtain Orders of Prejudgment Possession in accordance with the provisions of California Eminent Domain Law, as necessary.

ATTACHMENTS

Attachment A - Staff Report
Attachment B - Resolution of Necessity

Prepared by: Craig Justesen Director of Real Property Management & Development, (213) 922-7051
Velma C. Marshall, Deputy Executive Officer- Real Estate, (213) 922-2415 Holly Rockwell, Senior Executive Officer, Real Estate, Transit Oriented Communities and Demand Transportation Management, (213) 922-5585

Reviewed by: James de la Loza, Chief Planning Officer (213) 922-2920

Phillip A. Washington
Chief Executive Officer

ATTACHMENT A

STAFF REPORT REGARDING THE NECESSITY FOR THE ACQUISITION OF PROPERTY FOR THE I-710 SOUNDWALL PACKAGE 2 PROJECT

BACKGROUND

The Property is required for the construction of the I-710 Soundwall Package 2 Project (Project). The address, owner of record (as indicated by a title report) and the property interest being acquired for the Project are summarized on the table below:

Owner	Address	Property Interest being acquired
Maria Garcia	8233 Specht Avenue Bell Gardens, CA 90201	Permanent Footing Easement, Temporary Construction Easement and Site Improvements

A written offer for the acquisition of a Permanent Footing Easement, Temporary Construction Easement (TCE) and site improvements was mailed to the respective Property Owner by a letter dated December 7, 2018. The parcel is identified as Metro Parcel # E-08 (APN: 6227-027-040); (hereinafter the "Property").

A. The public interest and necessity require the Project.

The purpose of the Project is to build sound walls early (or in advance) of the ultimate planned improvements to the I-710 freeway and reduce traffic noise levels at noise-sensitive areas adjacent to the freeway. These "early action" sound walls will be built in their planned ultimate location. Also, existing sound walls that are in conflict with the future I-710 improvements and cannot be rebuilt "early" will be aesthetically treated to provide a uniform aesthetic theme as detailed in the I-710 Aesthetic Master Plan.

Noise measurements taken between June 2007 and June 2011 resulted in Equivalent Noise Levels (L'eq) ranging from 58 decibals (dBA) to 82 dBA within the project limits. L'eq is the Equivalent Noise Level used by Caltrans to address the maximum noise hour. Noise levels at several of the measured locations exceed the Noise Abatement Criteria (NAC) for residential areas (Activity Category B) of 67 dBA, L'eq(h) given in Figure 2, Section 2, Chapter 30 of the Project Development Procedure Manual (PDPM 2009). The proposed noise abatement mitigation measure is projected to lower some noise levels within the study limits below the 67 dBA L'eq threshold. In general, the proposed noise barriers also achieve the minimum attenuation criteria of 5 dBA.

B. The Project is planned or located in the manner that will be most compatible with the greatest public good and least private injury.

Consistent with Noise Barrier Scope Summary Report dated December, 2016 the I-710 Corridor has some of the highest population and proportion of traffic in the Southern

California region. During various community meetings, the residents of the Corridor area expressed their concerns with increased traffic noise. While the project has no permanent impacts, it is planned in a manner that addresses noise attenuation related to future expansion of existing freeway and street networks.

It is recommended that, based upon the foregoing, the Board find and determine that the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

C. The Property is necessary for the Project.

The Permanent Footing Easement, TCE, and site improvements are required for the construction of the I-710 Soundwall. The TCE will allow the contractor to build the sound wall on the Caltrans right-of-way line; in this case it is right up against the residents' properties. The Footing Easement is a permanent subsurface easement that is necessary for the soundwall footing that will be partially constructed on the Property.

It is recommended that the Board find that the acquisition of the Property is necessary for the Project.

D. Offers were made in compliance with Government Code Section 7267.2.

California Code of Civil Procedure Section 1245.230 requires that a Resolution of Necessity contain a declaration that the governing body has found and determined that either the offer required by Section 7267.2 of the California Government Code has been made to the Owner, or the offer has not been made because the Owner cannot be located with reasonable diligence.

California Government Code Section 7267.2 requires that an offer be made to the Owner and in an amount which the agency believes to be just compensation. The amount must not be less than the agency's approved appraisal of the fair market value of the property. In addition, the agency is required to provide the Owner with a written statement of, and summary of the basis for, the amount it established as just compensation.

Staff has taken the following actions as required by California law for the acquisition of the Property:

1. Retained an independent appraiser to determine the fair market value of the Property;
2. Reviewed and approved the appraisals, and established the amount it believes to be just compensation for the Property;
3. Determined the Owners of the Property by examining the County assessor's records, preliminary title reports, and occupancy of the Property;
4. Made a written offer to purchase to the Owners for the full amount of just compensation - which was not less than the approved appraised value;

5. Provided the Owners with a written statement of, and summary of the basis for, the amount established as just compensation with respect to the foregoing offer.

It is recommended that based on the above actions, the Board find and determine that the offer required by Section 7267.2 of the California Government Code has been made to the Owner.

E. Metro has fulfilled the necessary statutory prerequisites.

Metro is authorized to acquire property by eminent domain for the purposes contemplated by the Project under Public Utilities Code §§ 30503, 30600, 130051.13, and 130220.5; Code of Civil Procedure §§ 1230.010-1273.050; and Article I, § 19 of the California Constitution.

F. Metro has complied with the California Environmental Quality Act (CEQA)

As per CCR 15061 [b] [3] of CEQA, this project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The Categorical Exemption was given November 20, 2013 from the California State Department of Transportation (Caltrans).

Accordingly, Metro has fulfilled the necessary statutory prerequisites to acquire the Property by eminent domain.

CONCLUSION

Staff recommends that the Board adopt the Resolution of Necessity.

ATTACHMENTS
Attachment B – Resolution of Necessity

ATTACHMENT B

RESOLUTION OF THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
DECLARING CERTAIN REAL PROPERTY NECESSARY FOR PUBLIC PURPOSES
AND AUTHORIZING THE ACQUISITION THEREOF FOR
THE I-710 SOUNDWALL PACKAGE 2 PROJECT
8233 SPECHT AVENUE, BELL GARDENS, CA 90201
PARCEL E-08 (APN 6227-027-040)

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1.

THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (LACMTA) is a public entity organized and existing pursuant to Chapter 2 of Division 12 of the California Public Utilities Code (commencing with Section 130050).

Section 2.

The property interest described hereinafter is to be taken for public use, namely, for the I-710 Soundwall Package 2 Project (Project) and for public transportation purposes and all uses necessary, incidental or convenient thereto, and for all public purposes pursuant to the authority conferred upon the Board to acquire property by eminent domain by California Public Utilities Code Sections 30000-33027, inclusive, and particularly Section 30503 and 30600, Sections 130000-132650, inclusive, and particularly Sections 130051.13 and 130220.5, Code of Civil Procedure Sections 1230.010-1273.050, inclusive, and particularly Sections 1240.510 and 1240.610, and Article I, Section 19 of the California Constitution.

Section 3.

The property interests consists of the acquisition of a permanent footing easement, temporary construction easement (TCE) and site improvements, as described more specifically in the legal description (Exhibit A and Exhibit A-1) and depicted on the Plat Map (Exhibit B and Exhibit B-1), attached hereto (hereinafter, the "Property", incorporated herein by this reference).

Section 4.

(a.) The acquisition of the above-described Property is necessary for the construction and maintenance of the Project;

(b.) Metro has received an exemption from having a draft EIR/EIS and a FEIS/FEIR. Metro was not required to have a CEQA Environmental Clearance because it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (CCR 15061 [b] [3]). The Categorical Exemption was given November 20, 2013 from Caltrans.

Section 6.

Pursuant to Sections 1240.510 and 1240.610 of the Code of Civil Procedure, to the extent that the Property is already devoted to a public use, the use to which the Property is to be put is a more necessary public use than the use to which the Property is already devoted, or, in the alternative, is a compatible public use which will not unreasonably interfere with or impair the continuance of the public use to which the Property is already devoted.

Section 7.

The notice of intention to adopt this resolution was given by first class mail to each person whose Property is to be acquired by eminent domain in accordance with Section 1245.235 of the Code of Civil Procedure and a hearing was conducted by the Board on the matters contained herein.

Section 8.

Legal Counsel is hereby authorized and directed to take all steps necessary to commence legal proceedings, in a court of competent jurisdiction, to acquire the Property described above by eminent domain. Counsel is also authorized and directed to seek and obtain an Order for Prejudgment Possession of the Property in accordance with the provisions of the eminent domain law and is directed that the total sum of probable just compensation be deposited with the State Treasurer or the Clerk of the Superior Court. Counsel may enter into stipulated Orders for Prejudgment Possession and/or Possession and Use Agreements, where such agreements constitute the functional equivalent of an Order for Prejudgment Possession. Counsel is further authorized to correct any errors or to make or agree to any non-material changes to the legal description of the real property that are deemed necessary for the conduct of the condemnation action or other proceedings or transactions required to acquire the Property.

Counsel is further authorized to compromise and settle, subject to approval by the Board when required, such eminent domain proceedings, if such settlement can be reached, and in that event, to take all necessary action to complete the acquisition, including stipulations as to judgment and other matters, and causing all payments to be made. Counsel is further authorized to associate with, at its election, a private law firm for the preparation and prosecution of said proceedings.

I, MICHELLE JACKSON, Secretary of the Los Angeles County Metropolitan Transportation Authority, do hereby certify that the foregoing Resolution was duly and regularly adopted by a vote of two-thirds of all the members of the Board of the Metropolitan Transportation Authority at a meeting held on the 5th day of December, 2019.

_____ Date: _____

MICHELE JACKSON
LACMTA Secretary

ATTACHMENTS

1 - Legal Descriptions (Exhibit "A" and Exhibit “A-1”)
2 - Plat Maps (Exhibit “B” and Exhibit “B-1”)

EXHIBIT A
LEGAL DESCRIPTION

THE WESTERLY 4.00 FEET OF LOT 17 IN THE CITY OF BELL GARDENS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON TRACT NO. 28009, AS PER MAP RECORDED IN BOOK 723, PAGES 8 AND 9 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THE EASTERLY SIDE LINE TO BE EXTENDED OR SHORTENED TO TERMINATE ON THE NORTHERLY AND SOUTHERLY LINES OF SAID LOT 17.

CONTAINING 326 SQUARE FEET MORE OR LESS.

ALL AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY REFERENCE HEREIN, MADE A PART HEREOF.

Chris Nelson

CHRIS NELSON, P.L.S. 6385
DATED: NOVEMBER 15, 2017

EXHIBIT B

Plat Map of the Required Parcel – Permanent Footing Easement

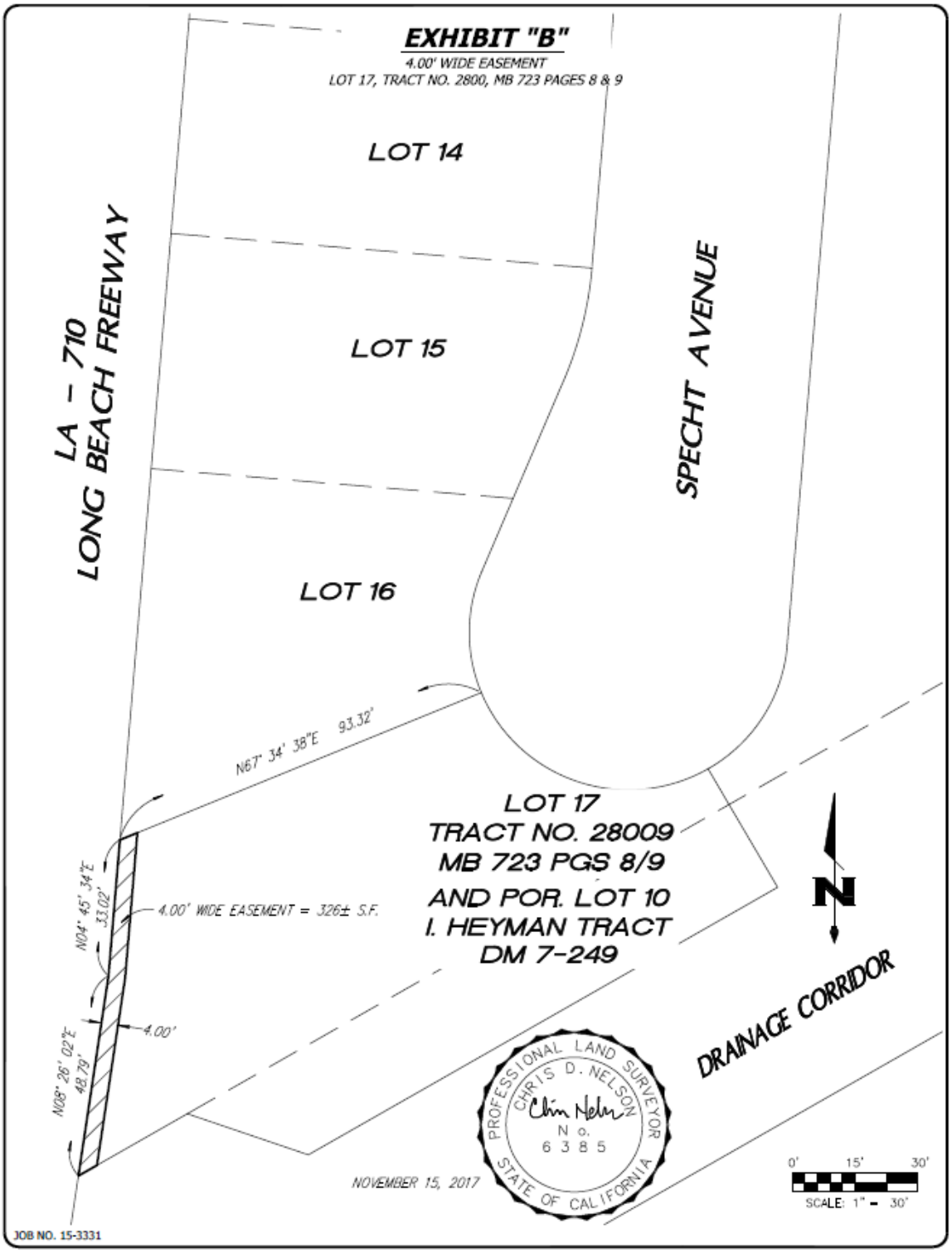


EXHIBIT A-1
LEGAL DESCRIPTION

THAT PORTION OF LOT 17 IN THE CITY OF BELL GARDENS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON TRACT NO. 28009, AS PER MAP RECORDED IN BOOK 723, PAGES 8 AND 9 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 17; THENCE, ALONG THE NORTHERLY LINE OF SAID LOT 17,

1. NORTH 67°34'38" EAST, 11.24 FEET TO THE INTERSECTION WITH A LINE BEING 10.00 FEET EASTERLY OF AND PARALLEL WITH THE WESTERLY LINE OF SAID LOT 17; THENCE ALONG SAID PARALLEL LINE,
2. SOUTH 04°45'34" WEST, 6.35 FEET; THENCE,
3. NORTH 88°56'54" WEST 2.61 FEET; THENCE, SOUTHERLY ALONG A LINE, NOT PARALLEL WITH THE WESTERLY LINE OF SAID LOT 17,
4. SOUTH 04°10'28" WEST, 29.84 FEET; THENCE,
5. SOUTH 85°32'53" EAST, 2.30 FEET, TO THE INTERSECTION WITH THE SOUTHERLY EXTENSION OF SAID AFOREMENTIONED PARALLEL LINE; THENCE, SOUTHERLY ALONG SAID PARALLEL LINE,
6. SOUTH 04°45'34" WEST, 2.14 FEET, TO THE INTERSECTION WITH A LINE PARALLEL WITH AND 10.00 FEET EASTERLY OF THE WESTERLY LINE OF SAID LOT 17 HAVING A BEARING OF NORTH 08°26'02" EAST; THENCE, SOUTHERLY ALONG SAID PARALLEL LINE,
7. SOUTH 08°26'02" WEST, 38.52 FEET; THENCE,
8. NORTH 81°33'58" WEST, 10.00 FEET, TO THE WESTERLY LINE OF SAID LOT 17; THENCE, NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 17,
9. NORTH 08°26'02" EAST, 38.20 FEET, TO AN ANGLE POINT IN THE WESTERLY LINE OF SAID LOT 17; THENCE,
10. NORTH 04°45'34" EAST, 33.02 FEET, TO THE POINT OF BEGINNING.

CONTAINING 668 SQUARE FEET MORE OR LESS.

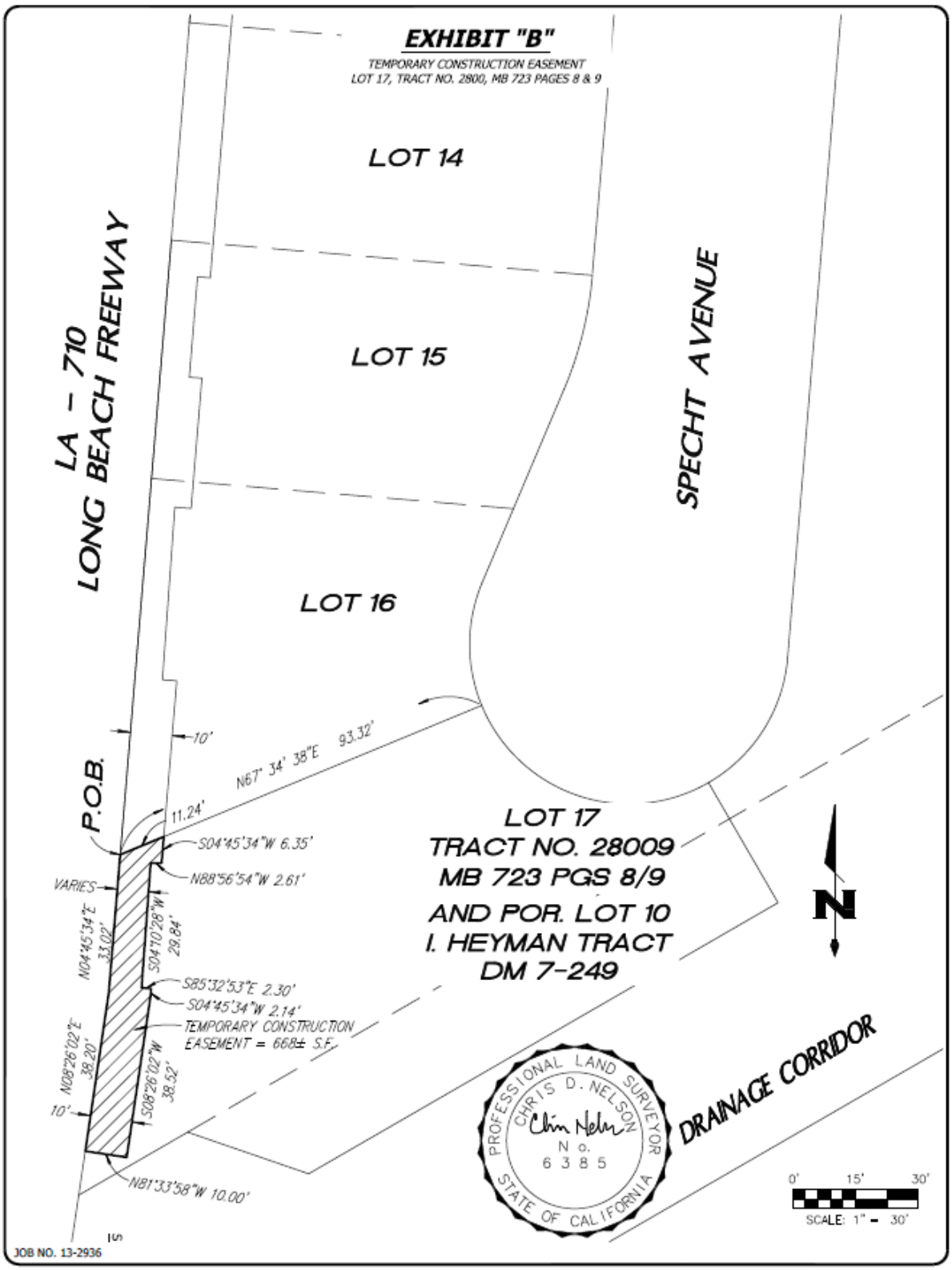
ALL AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY REFERENCE HEREIN, MADE A PART HEREOF.

Chris Nelson

CHRIS NELSON, P.L.S. 6385
DATED: JANUARY 27, 2017

EXHIBIT B-1

Plat Map of the Required Parcel – Temporary Construction Easement



HEARING TO ADOPT RESOLUTION OF NECESSITY

I-710 SOUNDWALL PACKAGE 2 PROJECT

BOARD MEETING, DECEMBER 5, 2019

ITEM #39

HEARING TO ADOPT RESOLUTION OF NECESSITY I-710 SOUNDWALL PACKAGE 2 PROJECT

- Location:
  - I-710 Freeway in Long Beach
- Purpose:
  - Noise attenuation to residents living next to I-710 Freeway
- Property Impacts:
  - Acquisition of a Permanent Footing Easement and Temporary Construction Easement (TCE) including site improvements
  - Purpose of the TCE is for construction of a soundwall
  - TCE allows contractor access
  - Duration of TCE is 30 months

HEARING TO ADOPT RESOLUTION OF NECESSITY
I-710 SOUNDWALL PACKAGE 2 PROJECT

8233 Specht Avenue, Bell Gardens, CA 90201
Parcel E-08 – Maria Garcia

Temporary Construction Easement

Footing Easement

HEARING TO ADOPT RESOLUTION OF NECESSITY
I-710 SOUNDWALL PACKAGE 2 PROJECT

Staff recommends the Board make the below findings and adopt the Resolution of Necessity:

- The public interest and necessity require the proposed Project;
- The proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- The Property sought to be acquired is necessary for the proposed Project;
- The offer required by Section 7267.2 of the Government Code has been made to the Owner; and
- The statutory requirements necessary to acquire the property or property interest by eminent domain have been complied with by LACMTA.